

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference K-47576-19	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/006013	International filing date (day/month/year) 03.06.2004	Priority date (day/month/year) 06.06.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant JUPITER GMBH		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>	
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/006013

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-10 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-19 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☐ the drawings:
- sheets _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	4, 5, 8, 11, 13, 14	YES
	Claims	1-3, 6, 7, 9, 10, 12, 15-18, 19	NO
Inventive step (IS)	Claims		YES
	Claims	1-19	NO
Industrial applicability (IA)	Claims	1-19	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1. This report makes reference to the following document:			
D1: EP-A-0 082 295			
2. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claims 1, 10, 12 and 19 is not novel (PCT Article 33(2)).			
It should also be noted that preferred features and unclear features (in bold below) cannot be used to restrict the invention from the prior art (cf. Box VIII).			
2.1 Document D1 discloses (cf. claim 1) a wood board in which wood chips or fibres and plastic particles or fibres are pressed together with a binder into a board by a hot-pressing process, some of the wood chips or fibres being replaced by a ground or pulped agglomerate of mixed plastics from waste disposal, the particle size of the wood chips or fibres and of the ground agglomerate			

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**being approximately the same.**

- 2.2 Document D1 further discloses (cf. claim 10) a process for producing a wood particle board in which plastic particles or fibres are mixed with wood chips, with admixture of a binder, and pressed into a board **of a predetermined thickness** by a hot-pressing process, the agglomerate comprising ground mixed plastics from waste disposal mixed with **wood chips of approximately the same particle size.**
- 2.3 Document D1 further discloses (cf. claim 12) a process for producing a particle board in which plastic particles or fibres are mixed with wood chips and pressed, with admixture of a binder, to a **predetermined thickness** by a hot-pressing process, the agglomerate comprising pulped mixed plastics from waste disposal mixed with wood fibres.
- 2.4 Document D1 further discloses (cf. claim 19) the use of a ground agglomerate of mixed plastics from waste disposal as a replacement substance for wood in a wood particle or fibre board.
3. Dependent claims 2, 3, 6, 7, 9, 15, 16, 17 and 18 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT novelty requirements.

Wood particle boards with a proportion of plastic

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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agglomerate of 150% or more (cf. claims 2 and 3) are known from D1 (cf. page 2, lines 14-20).

A proportion of pure plastics (cf. claims 6 and 7) is known from D1 (cf. page 4, lines 3-8).

A wood board having at least two layers (cf. claim 9) is known from D1 (cf. page 7, lines 17-33).

A proportion of agglomerate (cf. claim 15) is known from D1 (cf. page 2, lines 14-20; and page 4, lines 3-8).

A cryogenic grinder (cf. claim 16) is known from D1 (cf. page 4, lines 33-34).

A cold adhesive (cf. claim 17) is known from D1 (cf. page 8, lines 3-5).

Mixing in a sizing drum (cf. claim 18) is known from D1 (cf. page 11, lines 16-23).

4. Dependent claims 4, 5, 8, 11 and 14 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT inventive step requirements, since their features are generally known to a person skilled in the art.

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1. Contrary to PCT Rule 5.1(a)(ii), the description does not cite document D1 or indicate the relevant prior art disclosed therein.
2. Although claims 10 and 12 are drafted as separate independent claims, they seem in fact to relate to the same subject matter, the only apparent difference being in the definitions of the subject matter for which protection is sought.

The claims are therefore not concise and do not meet the requirements of PCT Article 6.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Some of the expressions used in the claims are vague and unclear and leave the reader uncertain about the meaning of the technical features in question. As a result, the subject matter of these claims is not clearly defined (PCT Article 6).

This concerns the following expressions:

- claims 1, 7, 10: "approximately"
- claim 8: "substantially"
- claims 10, 12, 15: "predetermined"
- claim 16: "about"
- claim 17: "in particular"

2. The term "particle size", used in claims 1, 4, 5 and 10 for the size of wood chips, wood fibres or plastic fibres, makes the subject matter unclear because a chip or fibre is not a particle, and leaves the reader uncertain about the meaning of the technical feature in question. As a result, the subject matter of these claims is not clearly defined (PCT Article 6). It is also unclear what size is meant, specially since particles, chips or fibres can also be characterised by their fibre length or diameter, or by average values, for example.

3. It is unclear what is meant by a spice mill (cf. claim 11); this leaves the reader uncertain about the meaning of the technical feature in question. As a result, the subject matter of this claim is not clearly defined.